



**CITY OF DUBLIN  
HERITAGE & CULTURAL ARTS COMMISSION  
REGULAR MEETING AGENDA**

**THURSDAY, JULY 14, 2016, 7:00 PM  
DUBLIN CIVIC CENTER, 100 CIVIC PLAZA**

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. ORAL COMMUNICATIONS**

**3.1 Public Comments**

At this time, the public is permitted to address the Heritage and Cultural Arts Commission on non-agendized items. The Commission must, however, comply with all State Laws in regard to items not appearing on the posted agenda. The Commission may respond to statements made or questions asked, or may request Staff to report back at a future meeting concerning the matter. Any member of the public may contact the Office of the Parks and Community Services Department related to the proper procedure to place an item on a future Heritage and Cultural Arts Commission agenda. The exceptions under which the Heritage and Cultural Arts Commission MAY discuss and/or take action on items not appearing on the agenda are contained in GC 54954.2(b)(1)(2)(3).

**4. MINUTES OF THE REGULAR MEETING**

**4.1 Minutes of the June 9, 2016 Regular Meeting**

The Commission will consider approval of the minutes of the June 9, 2016 Regular Meeting.

**STAFF RECOMMENDATION:**

Approve the minutes of the June 9, 2016 Regular Meeting.

**5. WRITTEN COMMUNICATIONS – None.**

**6. PUBLIC HEARING – None.**

**7. UNFINISHED BUSINESS**

**7.1 Safety Concerns Regarding Wallis Ranch Public Art Proposal, ‘Archeology’**

The Commission will receive additional information in response to their expressed safety concerns with the Wallis Ranch Public Art proposal, ‘Archeology.’

**STAFF RECOMMENDATION:**

Receive the Report and, if the Commission deems appropriate, reconsider the June 9, 2016 vote in which the Commission recommended City Council not approve ‘Archeology’ on the grounds of significant safety risk to the public.

**8. NEW BUSINESS – None.**

**9. OTHER BUSINESS**

**9.1 Brief Informational–Only Reports**

Brief INFORMATIONAL-ONLY reports from Commissioners and/or Staff, including Reports by Commission related to Meetings Attended at City Expense (AB 1234).

**9.2 Discussion of Future Agenda Items**

Staff will offer a preview of agenda items expected in the next two months. The Commission may suggest topics it would like to see added to future agendas with consensus of the majority of the Commission.

**10. ADJOURNMENT**

*This AGENDA is posted in accordance with Government Code Section 54954.2(a)*

*If requested, pursuant to Government Code Section 54953.2, this agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation, please contact the Office of Parks and Community Services (925) 556-4500 at least 72 hours in advance of the meeting. A complete packet of information containing Staff Reports and attachments related to each item is available for public review at least 72 hours prior to a Heritage & Cultural Arts Commission Meeting or, in the event that it is delivered to the Commission less than 72 hours prior to a Heritage & Cultural Arts Commission Meeting, as soon as it is so delivered. The packet is available in the Parks & Community Services Department at Civic Center.*



## STAFF REPORT

### HERITAGE AND CULTURAL ARTS COMMISSION

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**DATE:** July 14, 2016

**TO:** Honorable Chair and Commissioners

**FROM:** Tegan McLane, Cultural Arts & Heritage Manager

**SUBJECT:** Minutes of the June 9, 2016 Regular Meeting  
*Prepared by Rhonda Franklin, Management Analyst*

#### EXECUTIVE SUMMARY:

The Heritage & Cultural Arts Commission will consider approval of the minutes of the June 9, 2016 Regular Meeting of the Heritage and Cultural Arts Commission.

#### FINANCIAL IMPACT:

None.

#### RECOMMENDATION:

Approve the minutes of the June 9, 2016 Regular Meeting of the Heritage and Cultural Arts Commission.

#### DESCRIPTION:

The Heritage and Cultural Arts Commission will consider approval of the minutes of the June 9, 2016 Regular Meeting of the Heritage and Cultural Arts Commission.

#### NOTICING REQUIREMENTS/PUBLIC OUTREACH:

None.

#### ATTACHMENTS:

1. Draft Minutes of the June 9, 2016 Regular Meeting of the Heritage and Cultural Arts Commission.



# HERITAGE AND CULTURAL ARTS COMMISSION

## REGULAR MEETING

### *Draft Minutes*

#### CITY OF DUBLIN

June 9, 2016

The June 9, 2016 Regular Meeting of the Heritage and Cultural Arts Commission was called to order at 7:00 PM at the Dublin Civic Center, Dublin, California, by Chair Blackburn.

#### **ROLL CALL**

Commissioners (Cm.) Present: Blackburn, Deets, He, Minniear, Tutino, Iharosi  
Commissioners Absent: Szollos

#### **PLEDGE OF ALLEGIANCE**

Chair Blackburn led the Pledge of Allegiance.

#### **ORAL COMMUNICATIONS**

**3.1 Public Comments** – None.

#### **APPROVAL OF MINUTES**

**4.1 May 12, 2016 Regular Meeting**

On a motion by Cm. Deets, seconded by Cm. Minniear, and by a vote of 5-0-0 with Cm. Iharosi and Vice Chair Szollos absent, the Commission took the following action:

##### *ACTION:*

Approved minutes of the May 12, 2016 Regular Meeting with three amendments to Section 9.1.

**WRITTEN COMMUNICATIONS** – None.

**PUBLIC HEARING** – None.

#### **UNFINISHED BUSINESS**

**7.1 Wallis Ranch Public Art Proposal**

Ms. Tegan McLane, Cultural Arts and Heritage Manager, presented the specifics of the item as outlined in the Staff Report and introduced the artist, Mr. Eric Powell, who provided additional detail on the proposal.

Cm. Tutino stated she is unable to find the aesthetic value of the art as compared to some of the artist's other art pieces, and stated the art has more of a playground feel than an artsy or public art feel. She expressed her concerns for the safety of the art, as she believes it will be used as a playground by children and youth.

Cm. Minniear asked about the change in the location of the art. Mr. Garret Hines, with Trumark, described the new location of the art and the proximity from the old location.

Chair Blackburn stated the art is a great concept that expresses and preserves the history of Dublin.

Cm. Deets asked about the thickness of horseshoe-shaped sculpture and expressed concern that youth may use it for skateboarding activities. Mr. Powell stated that all of the sculptures would be 18 inches thick and skateboard deterrents could be placed on the sculptures.

Cm. He expressed his concern about the safety of the sculptures, as he also believes the art will be used as a playground for children and youth, and asked about the weight of each piece. Mr. Powell said the sculptures would weigh about one ton each and be engineered for earthquake safety.

Cm. Minniear asked about maintenance for the art. Ms. McLane said, once the developer's maintenance period has expired, the City would receive instructions from the artist on how to maintain the art going forward.

Cm. He asked about the ground surface for the art. Mr. Powell explained that the surface would be made of decomposed granite.

Chair Blackburn asked if plaques describing each sculpture would be installed, and Mr. Powell said yes.

Chair Blackburn opened for floor for Public Comment.

Mr. Kane Wong, Dublin resident, commented in favor of the art, but expressed his concerns regarding safety, due to the interactive and playground nature of the art.

Ms. Georgean Vonheeder-Leopold, City Historian, spoke in favor of the art.

Seeing no further comment, Chair Blackburn closed the floor for Public Comment.

Chair Blackburn expressed that, given the safety concerns of the other Commissioners, she would like to see the risk and safety concerns mitigated as much as possible.

Cm. Minniear expressed his comfort with the existing permitting and plan check process Staff has in place to ensure that any safety and risk concerns are properly addressed.

Cm. Minniear made a motion to recommend City Council approval of the art as proposed. The motion did not receive a second, and thus, failed.

Chair Blackburn made a motion to recommend City Council approval of the art as proposed with further consideration to ensure that any safety and risk concerns be properly addressed. Cm. Minniear seconded the motion; however, by a vote of 3-2-0 with Cms. He and Tutino opposed, and with Vice Chair Szollos absent, the motion failed; as Ms. McLane stated the vote in favor has to be a majority of the full Commission in order to pass.

Cm. Iharosi arrived at 8:05 PM.

Commission members continued to voice concern over the safety of the art.

Chair Blackburn made a motion to report to City Council that the Commission is unable to agree on a recommendation; however, the art does meet the majority of the criteria as established in the Public Art Master Plan, with the exception of the safety risk to the public, as voiced by some members of the Commission. The motion did not receive a second, and thus, failed.

Cm. Iharosi stated she likes the new location of the art, and stated she agrees with the safety concerns expressed by members of the Commission.

***On motion by Cm. Tutino, seconded by Cm. Deets, and by a vote of 4-2-0 with Chair Blackburn and Cm. Minniear opposed, and with Vice Chair Szollos absent, the Commission voted to not recommend City Council approval due to a significant safety risk to the public.***

## **NEW BUSINESS**

### **8.1 Dublin Camp Parks Military History Center Design Proposal**

Ms. Tegan McLane, Cultural Arts & Heritage Manager, presented the specifics of the item as outlined in the Staff Report, and introduced Mr. Steven Haller, subject matter expert for the Van Sickle & Roller, LLC design team, who provided further details on the project.

The Commissioners made comments in favor of the design proposal.

Chair Blackburn and Cm. Minniear asked about Staff's plan to seek sponsorships and donations to fund furniture, fixture, and equipment (FF&Es) purchases, and expressed concern over raising enough money for all of the recommended FF&Es. Ms. McLane explained that these items would not be a part of the exhibits, but would be purchases made to enhance the overall comfort of the facility. She stated Staff could not guarantee, but would work towards obtaining the full amount estimated for the purchases.

Ms. Georgean Vonheeder-Leopold, City Historian, spoke in favor of the project.

Cm. Minniear suggested a display panel be devoted to the Parks Reserve Forces Training Area.

***On a motion by Cm. Minniear, seconded by Cm. Tutino, and by a vote of 6-0-0 with Vice Chair Szollos absent, the Commission voted to recommend City Council approval of the Dublin Camp Parks Military History Center Design Proposal as presented.***

### **8.2 Arts Space Grant Pilot Program Proposal**

Ms. Tegan McLane, Cultural Arts & Heritage Manager, presented the specifics of the item as outlined in the Staff Report.

Cm. Deets asked about the 51% Dublin residency requirement for groups requesting space for active (participatory) programs. Ms. McLane explained that these groups would need to show that the event is benefitting Dublin residents.

Cm. Minniear asked about the requirement for 8-hour day reservations for the Dublin High School Center for Performing Arts and Education. Cm. Tutino stated the 8-hour requirement is most likely preferred by the School District to minimize disruptions to ongoing rehearsals/programs by the School. Ms. McLane gave examples of why groups would most likely use the facility in 8-hour blocks, and stated the Commission is welcome to make an alternate suggestion as part of the recommendation to City Council.

Chair Blackburn asked if the proposal was reviewed with non-profit organizations or potential grantees. Ms. McLane said no, and explained that the process was based on best practices of other cities.

Chair Blackburn asked about the requirement for a City Business License and liability insurance. Ms. McLane explained that these requirements are standard for organizations doing business in the City and for organizations renting City facilities, respectively.

Cm. Minniewar asked for clarification on how space would be allocated to the groups and Ms. McLane gave an overview of how the process would work.

***On a motion by Cm. Tutino, seconded by Cm. Iharosi, and by a vote of 6-0-0 with Vice Chair Szollos absent, the Commission voted to recommend City Council approval of the Arts Space Grant Pilot Program with the inclusion to seek feedback and evaluation from organizations upon conclusion of the pilot period.***

### **8.3 Winter 2016 Quarterly Report on Cultural Arts Classes and Events**

Ms. Tegan McLane, Cultural Arts & Heritage Manager, presented the specifics of the item as outlined in the Staff Report.

The Commission received the Report.

## **OTHER BUSINESS**

### **9.1 Brief Information Only Reports from Heritage & Cultural Arts Commissioners and/or Staff**

Cm. Deets reported he attended a City Council meeting.

Ms. McLane provided program, project, and event updates.

### **9.2 Discussion of Future Agenda Items**

Ms. McLane provided an overview of upcoming agenda items for the Commission.

Cm. Minniewar suggested the Public Art Master Plan be reviewed at a future date after the Cultural Arts Assessment is completed. With Cm. Szollos absent, the Commissioners voted in favor of agendaing this item.

## **ADJOURNMENT**

Being no further business, the meeting adjourned at 10:02 PM.

Minutes prepared by Rhonda Franklin, Management Analyst.

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Kathy Blackburn  
Chairperson

ATTEST: \_\_\_\_\_  
Tegan McLane  
Cultural Arts and Heritage Manager




## STAFF REPORT

### HERITAGE & CULTURAL ARTS COMMISSION

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**DATE:** July 14, 2016

**TO:** Honorable Chair and Commissioners

**FROM:** Tegan McLane, Cultural Arts & Heritage Manager 

**SUBJECT:** Safety Concerns Regarding Wallis Ranch Public Art Proposal, 'Archeology'  
*Prepared by Tegan McLane, Cultural Arts & Heritage Manager*

#### EXECUTIVE SUMMARY:

The Commission will receive additional information in response to their expressed safety concerns with the Wallis Ranch Public Art proposal, 'Archeology.' The developer and artist will provide additional information on the art piece. Staff will provide information on public art in Dublin in general and the engineering review process.

#### FINANCIAL IMPACT:

None.

#### RECOMMENDATION:

Staff recommends the Commission receive the Report and, if the Commission deems appropriate, reconsider the June 9, 2016, vote in which the Commission recommended City Council not approve 'Archeology' on the grounds of significant safety risk to the public.

#### DESCRIPTION:

At the June 9, 2016, Heritage and Cultural Arts Commission meeting, the Commission was presented with a proposal for a new piece of public art, 'Archeology,' which artist Eric Powell and developer Development Solutions LLC seek to install at the south end of the developer-built park, near the entrance road opposite Quarry Lane School. (Attachment 1)

The Commission voted 4-2 (Ayes: Deets, He, Iharosi, Tutino; Nays: Blackburn, Minniear; Absent: Szollos) to recommend that City Council not approve the proposed public art on grounds that members of the Commission had concerns regarding significant safety risk to the public.

Specific concerns voiced were:

- All four sculptures were easily accessible and could be climbed upon, and the proposed decomposed granite (DG) surface would not be as forgiving a landing surface as playground surfacing.
- The curved horseshoe sculpture provides an attractive nuisance for skateboarders to ride.
- The pulley sculpture provides an attractive nuisance for mischief-makers who might be inclined to loop a rope through the eye of the pulley, climb the 15' sculpture and fall. Shorter sculptures in the grouping could also be climbed.
- The pulley sculpture might topple in an earthquake.

As the developer and artist still intend to take the artwork forward to City Council at the August 18 meeting, the City Manager requested Staff and the developer and artist return to Heritage and Cultural Arts Commission to address the Commission's specific concerns.

### **Decomposed Granite**

Decomposed granite is a tan, sandy material that is commonly for park pathways and sometimes under trees and around small structures. Some examples of DG use in Dublin parks that Commissioners might be familiar with include:

- Walkways throughout Heritage Park
- Nature path passing under the bridge near Shannon Community Center
- Picnic area at Alamo Park

As a landing surface, DG is softer than concrete. Rubberized playground surfaces, engineered mulch and well-watered turf are softer than DG. Dry, compact turf can be on a par with DG. Using a rubberized playground surface under the sculptures is not advisable, as that signals to children and parents that the City intends for people to climb the sculptures. Using engineered mulch is not advisable, as it limits accessibility for those who use wheelchairs and wish to approach the art. Using turf under the sculpture is not advisable because of the difficulty mowing around the pieces and potential long-term damage from turf sprinklers.

### **Skateboarding Risk**

As noted at the June 9 meeting, the artist can add a rim to the inside curve edges of the horseshoe sculpture to deter skateboarders from jumping their boards on or off the sculpture. Also, the decomposed granite surface, with its sandy texture, is very difficult to ride a skateboard on because it does not allow the wheels to grip the ground and the grit can be damaging to the wheels. Skateboarders typically prefer to ride on areas with concrete surfaces. Skateboarders who might attempt to "ride" the horseshoe will have to place the skateboard on the sculpture in between the rims and then mount it. Without the ability to build up momentum, the curve is unlikely to produce much of a ride.

### **Climbing**

The tallest piece in the 'Archeology' grouping, the pulley, is 15' tall. The other pieces are approximately 8' tall. These heights are comparable in height to trees and structures commonly found in Dublin parks and to several other sculptures already in the collection. Most close to the proposed 'Archeology' artwork is 'Sirius,' a bronze located on the lawn near the parking lot and playground at Shannon Park. Sirius, which is 18' tall, was installed at City Hall in 1996 and relocated to Shannon Park in 2001. Other tall, potentially climbable pieces in the City's public art collection include: 'Dreams of Longing After Nothing' at Dolan Park (14') and 'Rolling Hills' bus shelters (13') at several locations in town.

The City of Dublin has not experienced a significant problem with mischief-makers climbing and falling or jumping from similar height trees, structures and sculptures in our parks. Staff is not aware of any injuries



from climbing and falling from a public art sculpture. However, as a precaution, the City could require – as a condition of approval – that the developer install a sign instructing people not to climb the structures.

### **Earthquake Risk**

Public art sculptures over a certain height (4') or weight (600 pounds) are subject to an engineering plan check before they are built and installed, and in progress and post-installation inspections by the Dublin Building and Safety Division are required. During the engineering plan check, engineers review the sculpture design, the footings and attachment points that will attach the sculpture to the ground to ensure the piece will be properly anchored to its base and that the base is appropriate for the soil conditions, adequately large and deep enough to prevent the piece from toppling or sinking over time. Large sculptures, depending on the design and material, may also be subject to an engineering review of the internal armature, or skeleton, beneath the piece's surface. In addition, the Building and Safety Division reviews accessibility access to the sculptures.

If the engineer deems it necessary, he can order a special inspection during actual installation, requiring a third party special inspector approved by the City to confirm the sculpture and its footings match the plans and remain on site the entire time to oversee the installation. A City Inspector always checks and signs off on sculptures that were large enough to require an engineering plan check.

The City's Acting Building Official will be present at the Commission meeting to answer any further questions regarding engineering reviews and inspections.

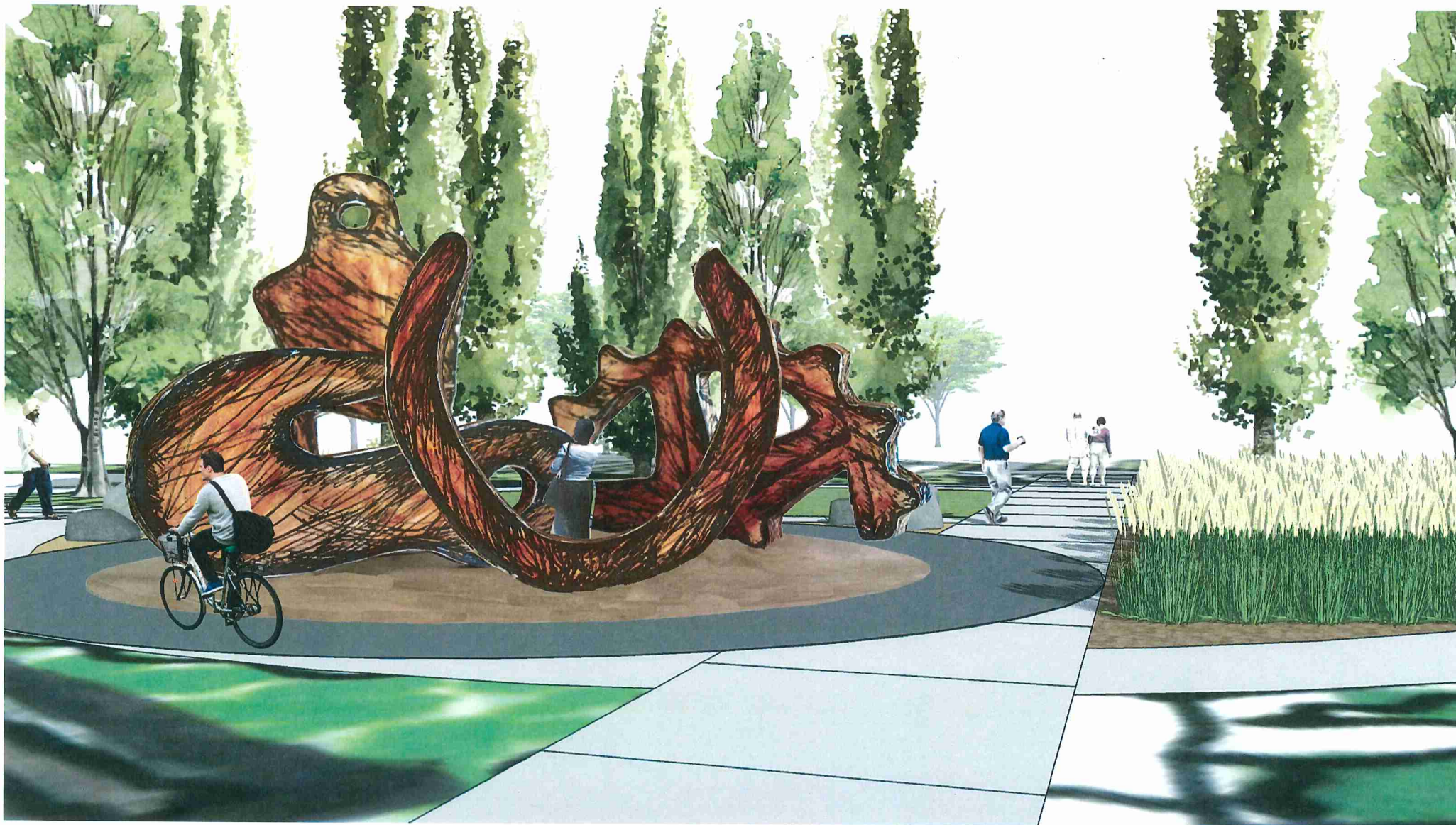
Also, in addition to a thorough review by City Staff, Staff has sought the opinion of Risk Management Officer Jim Hill at ABAG Plan, which provides the City's insurance. Mr. Hill's email, attesting that he believes the sculpture poses no undue safety risk, is attached. (Attachment 2)

### **NOTICING REQUIREMENTS/PUBLIC OUTREACH:**

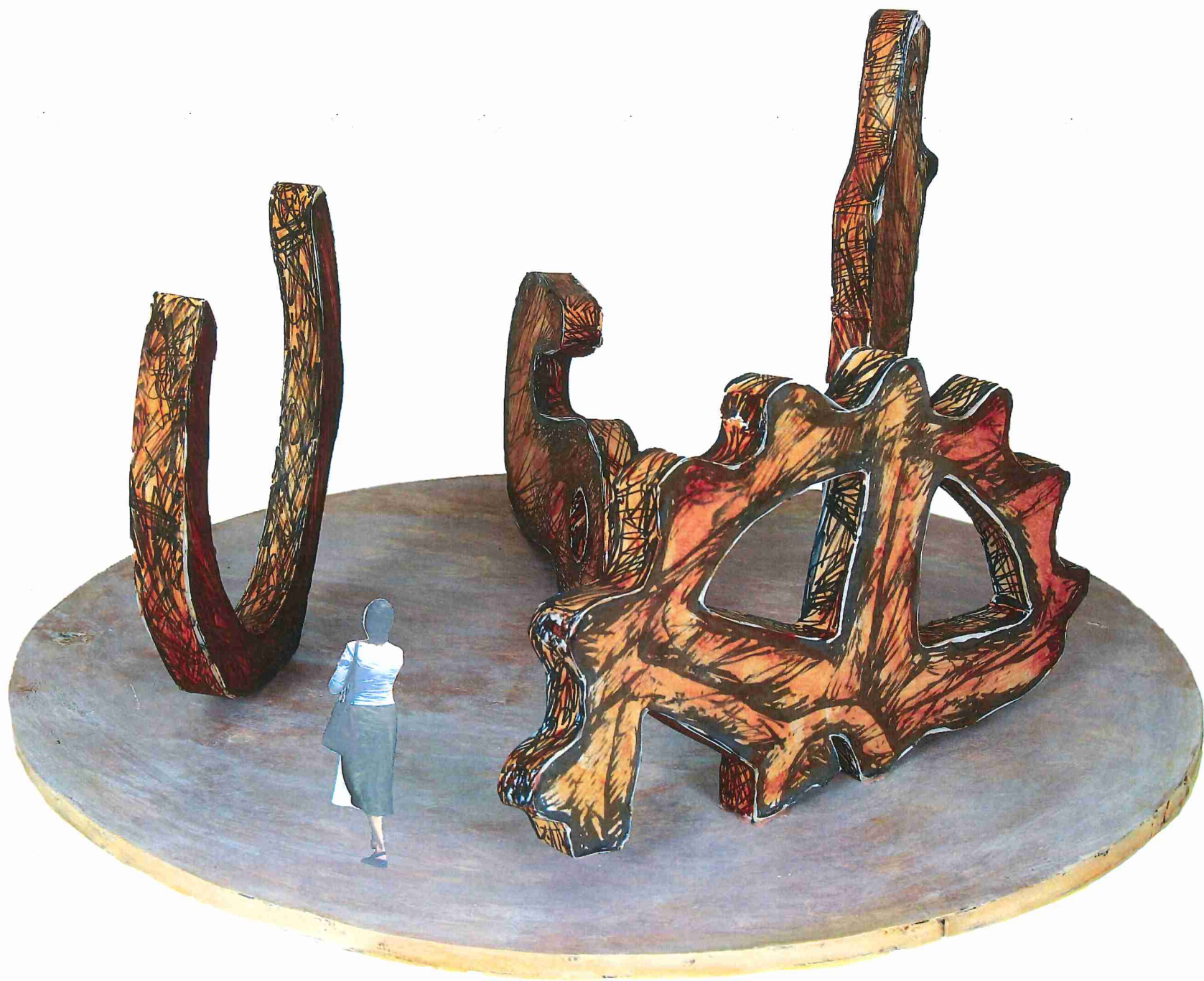
None.

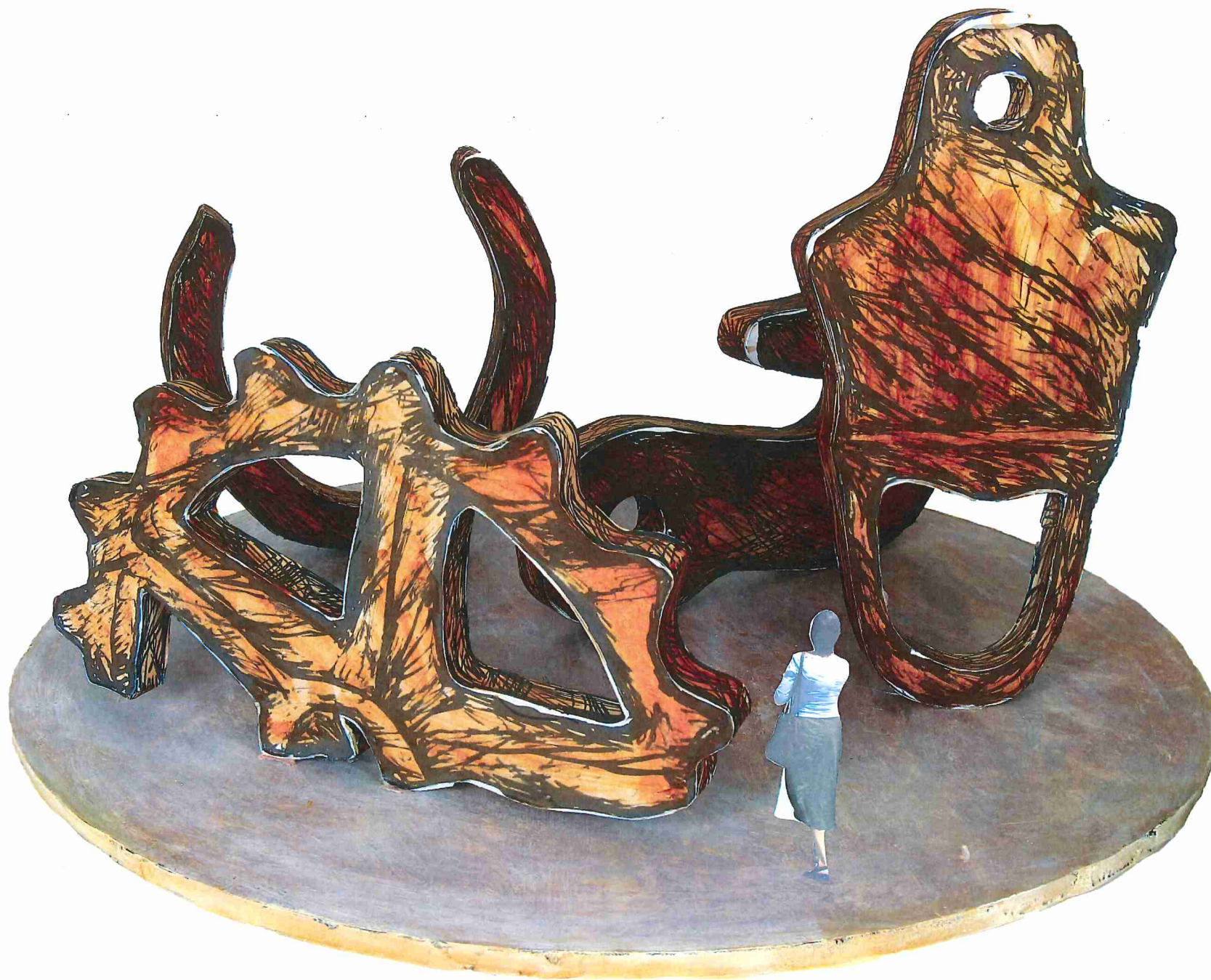
### **ATTACHMENTS:**

1. Wallis Ranch 'Archeology' Images
2. Letter from Jim Hill, Risk Management Officer, ABAG Plan

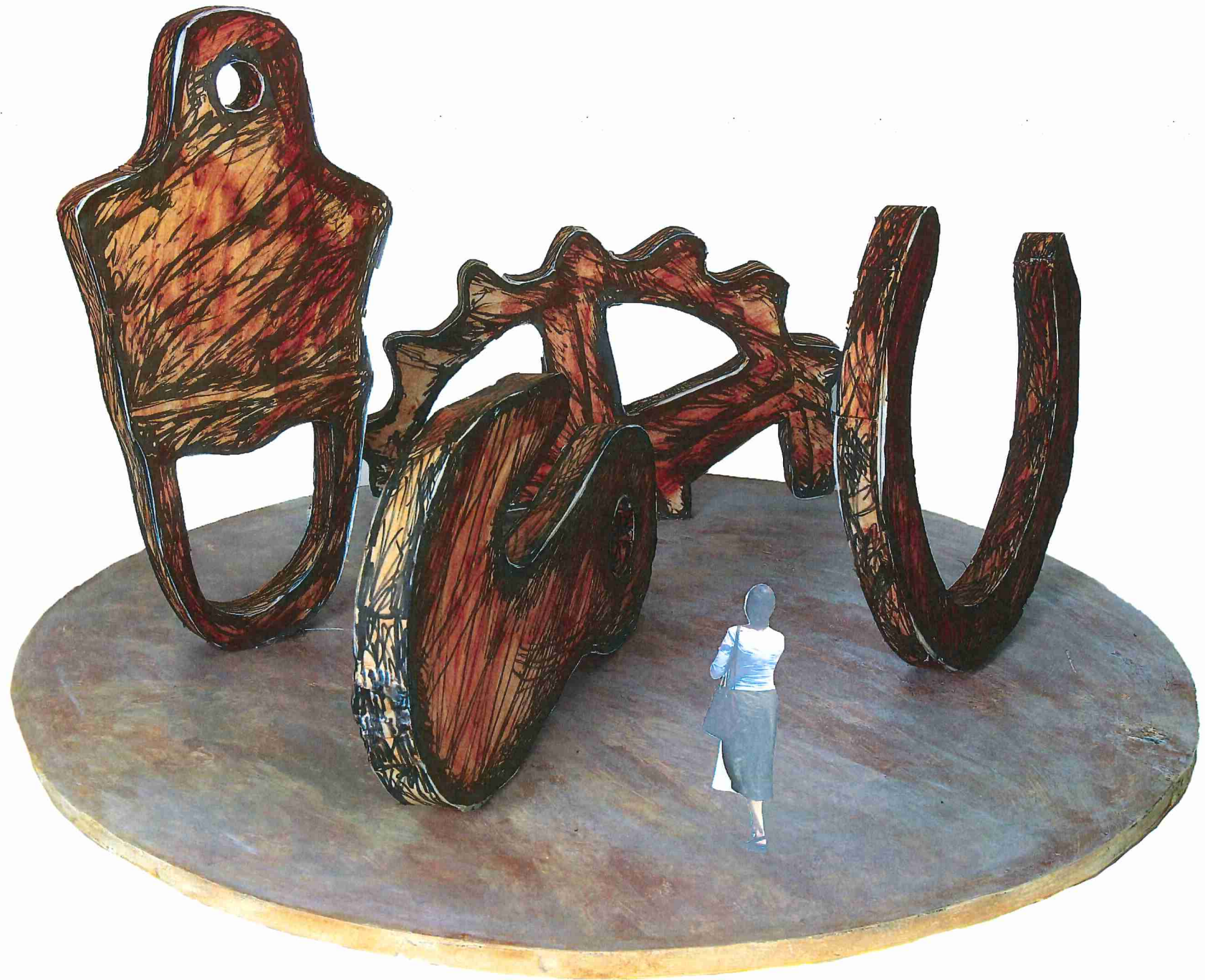




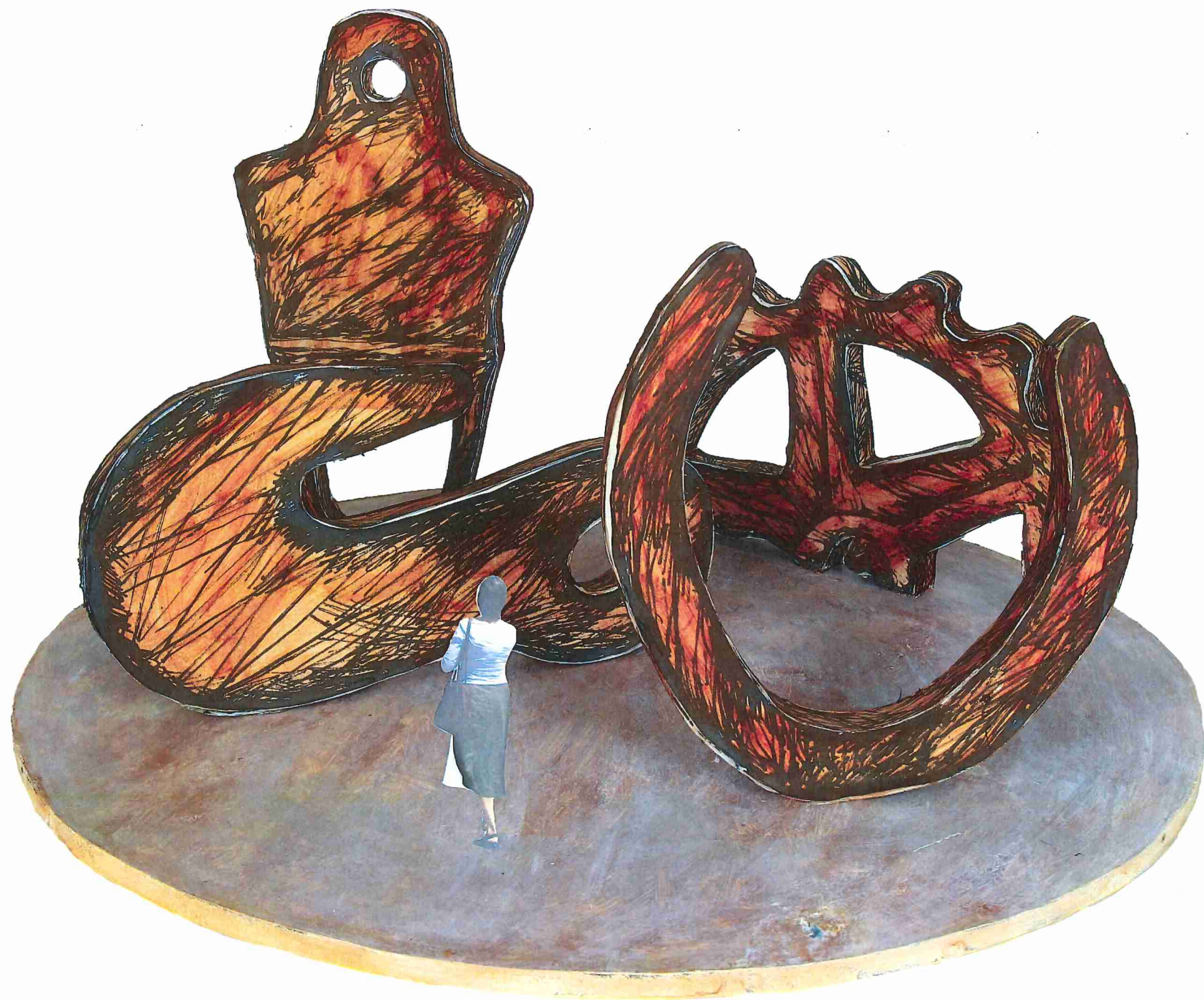












**From:** [James Hill](#)  
**To:** [Tegan McLane](#)  
**Subject:** Public Art Project...Risk Management Concerns and Consideration  
**Date:** Friday, July 08, 2016 2:53:11 PM

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Hi Tegan,

We do appreciate and note the concerns raised by the City and Cultural Arts Commission. The points raised during the discussion are good. Recognizing the generosity of the developer, along with the intrinsic value of public art to the community, my comments will focus on the risk and exposures you describe, as well as, explore practical solutions (including best practices) to reduce the inherent risk/exposure and abate some of the concerns noted. We have several member cities who have encountered situations you describe (public art donations - large scale) and we have found ways to manage risk effectively.

First and foremost, the mere presence of public art does not constitute a "dangerous condition", however, exposure does exist and we should do everything in our power to avoid negligence (dangerous condition) arguments should an accident occur and a claim arise. The risk described is real but can be managed in most cases.

That said, how do we identify exposure and eliminate or reduce all related risk to protect the City's interest?

The first concern of the city/commission was related to the "safety" of the artifact with specific notation of the size of the structure. A concern was raised regarding the structure toppling in the event of an "earthquake" or earth movement. These are very astute observations from a risk management perspective.

To abate concerns relative to this aspect of exposure (collapse, toppling) we have a duty and obligation to ensure that the artifact is structurally sound and there is design integrity that won't compromise the structure. We need to ensure that our public works staff and engineers assess the installation, erection and stabilization techniques to ensure it meets design standards and meets our objective of being structurally sound to significantly reduce the risk of collapse or toppling. Design and structural standards of the artifact itself should be reviewed and approved by city staff. The bracing, anchoring and stabilization of the structure to prevent collapse will be very important to address the concerns raised. There is also exposure to the public from the mere installation of the artifact and appropriate barriers and protective devices should be in place during installation. This element of risk (installation) should be borne by the developer/contractor. We can manage this risk through contractual risk transfer; hold harmless/indemnification agreements and obtaining proper insurance (Additional Insured) from the developer and contractor.

To abate concerns regarding the "attractive nuisance" component of risk (skateboarders, rope through pulley, horseplay) we should consider techniques like bumpers which annoy skateboarders and inhibit their ability to "grind" which is a technique known to all skateboarders (riding on the flat edges). Also we should consider barriers or warning signs. We have a duty to "warn" in certain situations and warning signage (keep off, no climbing, no sitting, no skateboarding, etc) can be helpful in defending claims. Barriers delineating "do not go beyond this point" can help to prevent direct physical access to the artifact(s). I do note that barrier recommendations can be challenging because they can alter the visual aesthetics of the art piece(s), however, keeping people away from the artifact itself will ensure accident

frequency will be reduced.

Physical surveillance is also important. Given the fact the art piece is located next to a school, Parks and Rec department should monitor the situation closely and regularly to enforce our intent to keep the artifact safe for the good of the public and keep kids from playing on the structure. Dialog with the school leaders to ensure the school children recognize and understand this is an art piece and not a playground piece of equipment is helpful and sets the tone that we want to keep the kids safe while providing cultural arts benefits to our community constituents.

Once the piece is transferred to the City, we have exposure to property damage to the structure itself (the value of the art). I would recommend we get an appraisal on the artifact(i.e. determine the value to insure the property) and schedule the art on our property insurance schedule at an "agreed amount". This will be helpful should there be any physical damage to the structure(s) which would require it to be repaired or replaced. Eliminates any disputes regarding valuation should we submit a property damage claim for the art.

Ongoing inspection and maintenance of the artifact will be important to ensure our risk control techniques are not compromised due to the age or wear and tear of the structure as time elapses.

In the final analysis, I would not rule out the project and art donation on the theory of "risk" alone. I would focus on additional ways to reduce risk/exposure and eliminate any potential condition which could result in an accident or injury. While my commentary and recommendations do not eliminate the entire spectrum of risk, they do provide guidance in reducing exposure and abating some of the concerns, all of which are notable from a risk management perspective.

We have our Loss Control Specialist standing by for additional consultation if necessary. Please review with your team and let me know your thoughts.

## Jim

Jim Hill, ARM-P  
Interim Risk Management Officer  
ABAG PLAN Corporation  
(415) 820-7969 Phone

### **ABAG has moved.**

Effective Monday May 23, 2016 our mailing address and location is:  
Association of Bay Area Governments  
375 Beale Street, Suite 700  
San Francisco, CA 94105  
(415) 820-7900

My email address will remain the same.  
My phone number will be (415) 820-79XX (last two digits remain the same).



We look forward to seeing you at our new location along with our regional partners, the Metropolitan Transportation Commission and the Bay Area Air Quality Management District.